

THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HONEYWELL INTERNATIONAL INC., a
Delaware corporation, INTERMEC, INC., a
Delaware corporation, and INTERMEC
TECHNOLOGIES CORPORATION, a
Washington corporation,
Plaintiffs,

v.

DR. PAUL MALTSEFF,
f/k/a Pavel Maltsev, an individual,
Defendant.

No. 2:14-cv-00283-JLR

**DECLARATION OF MARTIN CHESTER
IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DR. MALTSEFF'S
MOTION TO COMPEL AND FOR
FURTHER RELIEF RE: DISCOVERY**

Pursuant to 28 U.S.C. § 1746, I, MARTIN CHESTER, declare as follows:

1. I am a partner in the law firm of Faegre Baker Daniels LLP and one of the attorneys representing plaintiffs in the above-referenced matter. I submit this declaration in support of plaintiffs' Opposition to Dr. Maltseff's Motion to Compel and For Further Relief Regarding Discovery. Unless otherwise stated, the facts set forth herein are based upon my personal knowledge, information, and belief.

2. On March 14, 2014, I sent a proposed protective order to Dr. Maltseff's counsel, William Cronin.

Declaration of Martin Chester (2:14-cv-00283-JLR)

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1 3. Plaintiff's proposed protective order was based on the Western District of
2 Washington's model protective order, with suggested modifications. On March 17, 2014,
3 Dr. Maltseff's counsel informed us that he did not agree to its proposed order. Over the
4 following months, the parties spent considerable time negotiating the protective order before
5 it was filed on August 4, 2014.
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7 4. On August 26, 2014, I participated in a meet-and-confer telephone conference
8 with counsel for Dr. Maltseff regarding the current motion to compel.
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10 5. Prior to that call, I had requested that Datalogic's counsel also participate in
11 the call, so that the parties could have a comprehensive discussion regarding discovery
12 responses, supplementation, and scheduling. Datalogic's counsel responded that he was
13 unable to join the call on August 26, and Dr. Maltseff's counsel refused to reschedule the call.
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15 6. During the meet-and-confer call, I explained that Honeywell was working
16 diligently to review documents that had been recently produced by Datalogic and that it
17 intended to supplement its responses. Dr. Maltseff's counsel explained that they intended to
18 file a motion to compel just two days later and that they would consider any further response
19 from Honeywell after the motion was filed.
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21 7. On September 2, 2014, I participated in a separate meet-and-confer discussion
22 with counsel for Datalogic. As a result of that discussion, Honeywell and Datalogic were
23 successful in resolving their discovery disputes without the Court's intervention. Datalogic
24 will be producing additional documents as a result of this agreement.
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26 8. As part of that resolution, Datalogic agreed to produce additional categories of
27 documents, including Datalogic's invention disclosures for the categories of technology at
28

1 issue in this case, along with any summaries of, or communications related to, those invention
2 disclosures. Honeywell has not yet received Datalogic's supplemental production. On
3 September 5, 2014, counsel for Datalogic advised that his best estimate for Datalogic's
4 production would be "within two weeks."

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6 9. Dr. Maltseff's motion does not correctly reflect what I said during our meet-
7 and-confer call on August 26, 2014. Page 5 of the Motion says: "Plaintiff's counsel
8 acknowledged at a meet and confer that Plaintiffs have not yet answered the question raised
9 by Interrogatory No. 1." This is not correct, and Dr. Maltseff's suggestion that I conceded our
10 answer is deficient is completely false. During the call, I stated that I understood
11 Dr. Maltseff's position that Interrogatory No. 1 did not provide a complete answer to the
12 question, and that I comprehended their concern with our answer. However, I did not
13 acknowledge any deficiency in our answer (because it is not deficient). I did add that
14 Honeywell would supplement this answer, as well as any others, based on its ongoing review
15 of materials that have been produced (and that have yet to be produced).
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18 10. Dr. Maltseff's motion again mischaracterizes my statements on page 3,
19 footnote 4 of the Motion. Contrary to the Motion's statement, I did not say that Honeywell
20 has "not decided yet whether or not to produced unpublished patent applications." Rather, I
21 stated that we are evaluating the unpublished patent applications to determine responsiveness,
22 in light of the recent production by Datalogic of material that reveals some information about
23 Dr. Maltseff's activities at Datalogic.
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26 11. Dr. Maltseff again mischaracterizes my statements on page 9 of the Motion,
27 which states that on the meet-and-confer call, Honeywell agreed to "provide documents
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1 responsive to all of the requests for production.” (Motion at 9) (emphasis original). This is
2 true for most, but not all of the requests. On the call, I reiterated Honeywell’s objection to
3 Document Request No. 7, which seeks irrelevant compensation information about Honeywell
4 personnel. I added, however, that I would consult with Honeywell about this request.
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6 12. On September 5, 2014, I sent an email to counsel for Dr. Maltseff explaining
7 that they may deem the documents produced by Honeywell on August 6, 2014, as produced in
8 response to Dr. Maltseff’s discovery requests.
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10 * * *

11 I declare, under penalty of perjury under the laws of the United States of America, that
12 the foregoing is true and correct. Executed this 8th day of September, 2014 in Minneapolis,
13 Minnesota.
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15
16 /s Martin Chester
17 Martin Chester
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CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of September, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

William F Cronin - wcronin@corrchronin.com, lnims@corrchronin.com,
reception@corrchronin.com

Paul R. Raskin - praskin@corrchronin.com; reception@corrchronin.com

DATED this 8th day of September, 2014 at Seattle, Washington.

By s/ Louis D. Peterson
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